

MINUTES OF THE
MARICOPA ASSOCIATION OF GOVERNMENTS
MAG REGIONAL COUNCIL EXECUTIVE COMMITTEE

January 12, 2015

MAG Offices, Ironwood Room
302 N. 1st Avenue, Phoenix, Arizona

MEMBERS ATTENDING

Mayor Michael LeVault, Youngtown, Chair	#Mayor Gail Barney, Queen Creek
Mayor W.J. “Jim” Lane, Scottsdale, Vice Chair	*Mayor Jackie Meck, Buckeye
Mayor Greg Stanton, Phoenix, Treasurer	Mayor Mark Mitchell, Tempe
	Mayor Lana Mook, El Mirage

* Not present

Participated by video or telephone conference call

1. Call to Order

The Executive Committee meeting was called to order by Chair LeVault at 10:03 a.m. Mayor Barney participated by teleconference.

2. Call to the Audience

Chair LeVault stated that, according to the MAG public comment process, members of the audience who wish to speak are requested to fill out the public comment cards. He stated that there is a three-minute time limit. Public comment is provided at the beginning of the meeting for items that are not on the agenda that are within the jurisdiction of MAG, or non-action agenda items that are on the agenda for discussion or information only. Chair LeVault noted that no public comment cards had been received.

3. Approval of Executive Committee Consent Agenda

Chair LeVault noted that prior to action on the consent agenda, members of the audience are provided an opportunity to comment on consent items that are being presented for action. Following the comment period, committee members may request that an item be removed from the consent agenda.

Chair LeVault requested a motion to approve the consent agenda. Mayor Lane moved to approve consent items #3A-#3E. Mayor Mook seconded the motion and the motion carried unanimously.

3A. Approval of the November 17, 2014 Executive Committee Meeting Minutes

The Regional Council Executive Committee, by consent, approved the November 17, 2014 Executive Committee meeting minutes.

3B. Consultant Selection for the MAG Establishment/ Commercial Surveys

The Regional Council Executive Committee, by consent, approved the selection of Cambridge Systematics, Inc., to conduct the MAG Establishment /Commercial Surveys as a part of the Travel Survey - Data Application On-Call for an amount not to exceed \$1,500,000.

The Fiscal Year (FY) 2014 MAG Unified Planning Work Program and Annual Budget, approved by the MAG Regional Council in May 2013, includes \$4,500,000 for On-Call Consulting Services for Travel Survey - Data Application. The main purpose of the three-year project is to collect regional travel survey data from residential households and non-residential establishments. The On-Call contracts will include up to \$2,500,000 for the regional household travel survey and up to \$2,000,000 for establishment surveys and required modeling support. All major projects within the on-call framework are closely interrelated and will be coordinated by MAG to ensure consistency of survey schedules, sample designs and proper exchange of information between surveys and relevant MAG forecasting models. The survey data will be used to re-calibrate and improve regional travel forecasting models, update regional travel forecasts, and provide information required for a variety of planning and analytical applications at MAG and MAG member agencies. On October 8, 2014, consultants from the approved MAG Travel Survey - Data Application On-Call list were invited to submit technical and pricing proposals for the MAG 2014 Travel Survey - Data Application Consultant Establishment/Commercial Surveys Mini Request for Proposals. MAG received one proposal by the November 5, 2014, deadline. On November 18, 2014, a multi-agency evaluation team met, reviewed the proposal and recommended to MAG the selection of Cambridge Systematics, Inc., to conduct the Establishment/Commercial Surveys for an amount not to exceed \$1,500,000.

3C. Corridor Safety Plan Pilot Project Consultant Selection

The Regional Council Executive Committee, by consent, approved the selection of Michael Baker Jr., Inc., to conduct the Corridor Safety Plan Pilot Project, for an amount not to exceed \$200,000.

The Fiscal Year (FY) 2015 MAG Unified Planning Work Program and Annual Budget, approved by the MAG Regional Council in May 2014, identified a pilot project for developing a Corridor Safety Plan, with a budget of \$200,000. This pilot project will be similar to a Road Safety Assessment but would cover several miles of an urban arterial corridor that has significant crash risk based on crash data for the most recent three years. This resulting Corridor Safety Plan would address road safety issues related to all modes and users of the road system. The pilot project would identify potential countermeasures and strategies, including public

information campaigns and increased enforcement for improving road safety. The Indian School Road corridor from 51st Avenue to 75th Avenue has been selected for this pilot project. Four consultants from the approved list of MAG Intelligent Transportation Systems and Safety On-Call Consultants were invited to submit proposals in response to a Mini Request for Proposals for the pilot project. Three firms submitted proposals which were reviewed by a multi-agency proposal evaluation team. The team recommended to MAG the selection of Michael Baker Jr., Inc. On December 9, 2014, the MAG Transportation Safety Committee recommended approval of the selection of Michael Baker Jr., Inc., to conduct the Corridor Safety Plan Pilot Project, for an amount not to exceed \$200,000.

3D. Appointment of MAG Regional Bicycle and Pedestrian Committee Vice Chair

The Regional Council Executive Committee, by consent, approved Jim Hash, City of Mesa, as the MAG Regional Bicycle and Pedestrian Committee Vice Chair.

On August 21, 2013, the MAG Regional Council approved the updated MAG Committee Operating Policies and Procedures. The Policies and Procedures state that in the event of a vacancy in the Vice Chair position, a new Vice Chair is appointed by the Executive Committee to complete the remainder of the Vice Chair's term. The Vice Chair of the Regional Bicycle and Pedestrian Committee, Tracy Stevens, has resigned from her position at the City of Avondale, and has relinquished her position as MAG Regional Bicycle and Pedestrian Committee Vice Chair. On December 1, 2014, MAG staff sent a notice to the Management Committee, the MAG Regional Bicycle and Pedestrian Committee, and the Intergovernmental Representatives to solicit letters of interest for the Vice Chair position on the Regional Bicycle and Pedestrian Committee. One letter requesting consideration for the Vice Chair position was received.

3E. Appointment of MAG Air Quality Technical Advisory Committee Vice Chair

The Regional Council Executive Committee, by consent, approved, Tim Conner, City of Scottsdale, as the MAG Air Quality Technical Advisory Committee Vice Chair.

On August 21, 2013, the MAG Regional Council approved the updated MAG Committee Operating Policies and Procedures. The Policies and Procedures state that in the event of a vacancy in the Chair position, the Vice Chair becomes Chair for the unexpired term of the previous Chair, and a new Vice Chair is appointed by the Executive Committee to complete the remainder of the Vice Chair's term. The Chair of the Air Quality Technical Advisory Committee, Philip McNeely, has resigned from his position at the City of Phoenix, and has relinquished his position as MAG Air Quality Technical Advisory Committee Chair. According to the Policies and Procedures, Vice Chair, William Mattingly from the City of Peoria will ascend to the Chair position. Incoming Chair Mattingly will serve out the remainder of Chair McNeely's tenure, which is due to expire on June 30, 2015 and is eligible to serve one additional two-year term. On October 8, 2014, MAG staff sent a notice to the Management Committee, the MAG Air Quality Technical Advisory Committee and the Intergovernmental Representatives to solicit letters of interest for the Vice Chair position of the Air Quality Technical Advisory

Committee. One letter requesting consideration for the Vice Chair position was received.

4. Appointment of MAG Transit Committee Vice Chair

Dennis Smith, MAG Executive Director, reported that, Madeline Clemann, has relinquished her position as the MAG Transit Committee Chair. According to the Policies and Procedures, Vice Chair, Maria Hyatt, from the City of Phoenix, will ascend to the Chair position. Incoming Chair Hyatt will serve out the remainder of Chair Clemann's tenure, which is due to expire on December 31, 2015, and is eligible to serve one additional two-year term. He added that on November 5, 2014, MAG staff sent a notice to the MAG Management Committee, the MAG Transit Committee, and the Intergovernmental Representatives to solicit letters of interest for the Vice Chair position on the Transit Committee.

Mr. Smith stated two letters of interest for the Vice Chair position on the Transit Committee were received from Kristen Sexton, City of Avondale and Wulf Grote, Valley Metro. Chair LeVault asked if there were any comments from the committee. There were none.

Mayor Mook moved to recommend Kristen Sexton, City of Avondale, for the Vice Chair position on the Transit Committee. Mayor Mitchell seconded the motion and the motion carried unanimously.

5. Arizona Trade and Investment Office Memorandum of Understanding with the Arizona Commerce Authority

Alana Chávez Langdon, MAG International Economic Development Analyst, stated that in December 2013, the Regional Council approved providing \$25,000 in MAG dues to the City of Phoenix to partner in the establishment of an in-market trade, investment and tourism office in Mexico City. Since that time, the City of Phoenix and the Arizona Commerce Authority (ACA) have worked to jointly collaborate on this effort. MAG staff has attended several meetings regarding the trade office with the City of Phoenix, the ACA and their contractors. As a partner to this initiative, MAG has been requested by the ACA to enter into an Memorandum of Understanding (MOU) to establish a protocol for services and to memorialize understandings between MAG and ACA relating to the establishment and operation of the trade and investment office in Mexico City, Mexico.

Ms. Chávez Langdon indicated as part of this MOU, MAG will be issuing the previously approved \$25,000 for the trade and investment office in Mexico City to the ACA. She added that the proposed draft MOU will be in effect until June 2015, with the option of renewing two one-year terms. Ms. Chávez Langdon stated that this item was recommended for approval at the January 6, 2015 Economic Development Committee meeting and is on this agenda for information, discussion and possible action to recommend approval to enter into an MOU with the ACA, with the final approval being requested at the next MAG Regional Council meeting.

Chair LeVault asked if there were any comments or questions from the committee. Mayor Lane stated that he thought this committee previously approved this item. Mr. Smith replied that for the interest of being transparent, the \$25,000 will now be going to the ACA instead of the City of Phoenix.

Mayor Mitchell motioned to recommend approval to enter into a Memorandum of Understanding with the Arizona Commerce Authority for the Arizona Trade and Investment Office and to send the previously approved \$25,000 for this office to the Arizona Commerce Authority. Mayor Mook seconded the motion and the motion carried unanimously.

6. Update on the Arizona Center for Law in the Public Interest Lawsuit on the MAG 2012 Five Percent Plan for PM-10

Lindy Bauer, MAG Environmental Director, stated that previously MAG submitted a motion to intervene on the lawsuit filed by the Arizona Center for Law in the Public Interest to challenge the approval of the MAG 2012 Five Percent Plan for PM-10 by the Environmental Protection Agency (EPA). She noted that the motion was filed late to intervene. The State supported MAG's motion, but the Arizona Center for Law in the Public Interest opposed MAG's motion to intervene and a motion was filed on October 29, 2014.

Ms. Bauer stated that MAG's Washington, D. C. legal counsel submitted a motion to reply, which was submitted on November 7, 2014. She added that on December 9, 2014, MAG's Washington, D. C. legal counsel indicated that the court would allow MAG to submit a brief to intervene for consideration by December 31, 2014, which was completed. Ms. Bauer stated that the court will look at the brief to intervene and then the court will decide if it will let it stand as intervener brief or an amicus brief.

Ms. Bauer reported that the ADEQ submitted a brief that had a deadline of December 31, 2014, and the EPA brief came in December 17, 2014. She displayed the extensive files of the briefs that have been submitted. She added that the documents are also available online on the MAG Air Quality web page of the MAG website.

Ms. Bauer stated that this lawsuit is against the EPA. She noted that the EPA brief was very thorough and explained that the EPA had reasonably approved the exceptional event documentation. She noted that one exhibit EPA submitted was an actual demonstration for an exceptional event of June 27, 2012. Ms. Bauer stated that EPA also pointed out that contingency measures can be implemented early, have continuous benefits, and that EPA has approved several early implementation measures for other areas. She stated that EPA pointed out there was no need to update the best available control measures and most stringent measures. The EPA approved them as part of the Serious Area Particulate Plan for PM-10 in 2002.

Ms. Bauer reported ADEQ noted that this is the sixth petition on PM-10 by the Center for Law in the Public Interest. She added that the State has pointed out that the "sue and settle" approach is not appropriate for this situation. Ms. Bauer noted that the State provided data that showed

a downward trend in PM-10 monitor data, supports the technical documentation submitted for exceptional events, and contingency measures. She added that the State also noted that agriculture is not a major source of PM-10 and new agriculture measures are not needed to demonstrate attainment. Ms. Bauer indicated that the State's brief also calls for denial of the petition for review.

Ms. Bauer added that MAG's brief describes the development of the PM-10 Plan by the member agencies and the State and the extensive documentation submitted for exceptional events. The Washington, D. C. legal counsel included charts that showed the exceptional events are fluctuations from historical normal data. Ms. Bauer stated that legal counsel also pointed out that early implementation of contingency measures is allowed and that best available control measures and most stringent measures do not need to be updated. Ms. Bauer stated that the Washington, D. C. legal counsel pointed out that the Center for Law in the Public Interest is asking the court to find that the EPA approval of the Plan is an abuse of discretion, is contrary to law, but does not seek a remedy.

Ms. Bauer stated that MAG is requesting that the court uphold the approval of the MAG 2012 Five Percent Plan for PM-10 and deny the petition for review. She stated that the Washington, D. C. legal counsel expressed that they did not know the time frame for when the court would decide if MAG's brief would be an amicus brief or an intervener brief. Ms. Bauer added that they also did not know when it would go to court, but perhaps in the fall or later. She stated that past legal challenges to EPA's approval of Plans have taken five to six years, and the MAG member agencies had fared well in the outcomes. Ms. Bauer stated that the Washington, D. C. legal counsel has been very careful to ensure that the MAG brief complements the briefs submitted by the State and EPA.

Chair LeVault thanked Ms. Bauer for the update and asked if there were any questions of comments from the committee. Mr. Smith acknowledged the extra effort by Ms. Bauer and her staff, especially Matt Poppen, who worked throughout the holidays, and very late on New Year's Eve to ensure that the MAG brief was submitted on time. Chair LeVault asked what would happen if we lost this case. Ms. Bauer stated that it is difficult to speculate. We will have to see what the court rules.

Mayor Mook asked why is the Center of Law for the Public Interest involved in this matter. Ms. Bauer stated that they are contending that it has taken too long to clean up the air and feel that the Clean Air Act was not intended to approve this many exceptional events. She added that the MAG Washington, D.C. legal counsel points out in the MAG brief that the Clean Air Act does not set a limit on the number of exceptional events.

7. Legislative Update

Nathan Pryor, Government Relations Manager, stated that MAG was approached by the Rural Transportation Advisory Council requesting MAG consider signing onto a letter that will be sent to the Governor and Legislature requesting an elimination of transfers from the Highway User

Revenue Fund (HURF). He reminded the committee since 2001, more than \$1.8 billion has been diverted from the HURF, including \$96 million in FY 2015. Mr. Pryor noted that other councils of governments, metropolitan planning organizations, various chambers of commerce, and other statewide organizations will also be signing the letter. He added that a similar letter was sent by MAG Regional Council last year. Mr. Pryor stated that this letter will be sent out within the next two days, which is why he is seeking this committee's approval. Chair LeVault asked if there were any comments or questions from the committee. There were none.

Mayor Mitchell motioned to recommend approval to sign a letter to be sent to the Governor and Legislature requesting an elimination of transfers from the Highway User Revenue Fund (HURF). Mayor Stanton seconded the motion and the motion carried unanimously.

8. Discussion of the Development of the FY 2016 MAG Unified Planning Work Program and Annual Budget

Dennis Smith, MAG Executive Director, stated Becky Kimbrough, Fiscal Services Manager, was on jury duty and he would be presenting this agenda item on her behalf. He reported that the dues and assessments are the same amount as last year, with the Consumer Price Index estimate of 2.07 percent, which may change a little. He added that each year, the MAG Unified Planning Work Program and Annual Budget is developed in conjunction with member agency and public input. The Work Program is reviewed each year by the federal agencies in the spring and approved by the Regional Council in May. This provides an opportunity for early input into the development of the Work Program and Budget.

Chair LeVault asked if there were any comments or questions from the committee. There were none.

9. Annual Performance Review of the MAG Executive Director

Chair LeVault stated that the employment agreement entered into with the MAG Executive Director in January 2003 provided that the Executive Committee conduct an annual performance review in consultation with the Regional Council. On November 17, 2014, the Executive Committee agreed to move forward with the electronic evaluation survey for the MAG Executive Director's performance review. The electronic survey and Goals and Results for FY 2014 were sent to members of the Executive Committee and Regional Council to receive their input on the review. Chair LeVault asked if there were any comments or questions from the committee regarding the results of the completed surveys. He noted that copies of the documents were available if members wanted to review them.

Mayor Stanton moved that the Executive Committee go into Executive Session regarding the performance review of the MAG Executive Director. Mayor Lane seconded the motion and the motion carried unanimously. The meeting went into Executive Session at 10:35 a.m. The Executive Committee reconvened regular session at 11:12 a.m.

Mayor Mook moved to recommend approval to the MAG Regional Council to continue the current compensation and benefits of the Executive Director. Mayor Mitchell seconded the motion and the motion carried unanimously.

10. Request for Future Agenda Items

Chair LeVault asked if there were any requests for future agendas items. There were none.

11. Comments from the Committee

Chair LeVault asked if there were any comments from the committee. There were none.

Adjournment

There being no further business, the Executive Committee adjourned at 11:15 a.m.

Chair

Secretary